

# MINUTES OF A REGULAR MEETING OF THE RESOURCE CONSERVATION COMMISSION

January 3, 2005

Ken Lee Building Conference Room  
430 "F" Street

**MEETING CALLED TO ORDER** by Chair Doug Reid at 6:01 p.m.

## ROLL CALL/MOTION TO EXCUSE

**MSC** (Thomas/Jasek) to excuse Commissioner Tracy Means. **Vote:** (6-0)

**MEMBERS PRESENT:** Chair Doug Reid, Vice-Chair John Chávez, Commissioners Teresa Thomas, Juan Diaz, Stanley Jasek and Pamela Bensoussan

**STAFF PRESENT:** Marilyn Pongeggi, Environmental Review Coordinator  
Maria Muett, Associate Planner  
Marisa Lundstedt, Environmental Projects Manager  
Dana Smith, Assistant Director of Community Development  
Harold Phelps, Associate Planner  
Nancy Lytle, Assistant Director of Planning & Building  
Ken Lee, Principal Community Development Specialist  
Lynnette Tessitore-Lopez, Associate Planner  
Dino Serafini, Civil Engineer  
John Schmitz, Principal Planner  
Linda Bond, Recording Secretary

**OTHERS PRESENT:** Karyn Malmgren, NTD Stichler  
David Gottfredson, RECON

**APPROVAL OF MINUTES:** None.

**ORAL COMMUNICATIONS:** None.

## NEW BUSINESS

### 1. IS-04-002 – Mater Dei High School and Church Complex, Intersection of Birch Road and Magdalena Avenue in Otay Ranch

Ms. Maria Muett (*Associate Planner*) reported that the proposed project site consists of a vacant 51-acre area in Village Six of the Otay Ranch adjacent to Birch Road, future SR-125 and Magdalena Avenue. The proposed project consists of a private high school and church complex in either four separate phases or concurrently at one time and includes the church complex to accommodate a build-out of approximately 1,000-1,800 parishioners, and a high school for 2,200 students. The project site is accessible via one public driveway, one emergency access off of Birch Road and two driveways off of Magdalena Avenue. The site has been graded. Environmental review for the proposed project has been required to

address any potential environmental impacts beyond those originally anticipated in the Village Six EIR. A Notice of Initial Study was circulated to the property owners; the comment period ended on November 8, 2004. A noise study and a traffic study were required and addressed in the Initial Study. The required mitigation measures would mitigate short-term construction-related air quality impacts to below a level of significance.

Staff Recommendation: That the RCC determine that the Initial Study is adequate and recommend that the Mitigated Negative Declaration be adopted.

#### Commission Comments

Chair Reid asked if the private school was subject to the same State regulations as the public schools regarding hazardous materials from agricultural activities on the property? **Ms. Marisa Lundstedt** (*Environmental Projects Manager*) stated that was an issue that was raised at the program level. It was evaluated as an entire planning area. But it was also re-evaluated in the Village Six EIR, and the level of pesticides was not significant in and around the site.

Commissioner Thomas was concerned about the type of trees particularly leaf droppings and susceptibility to infections, drainage patterns and the uses of water. She recommended that be addressed more fully in the report. **Mr. John Schmitz** (*Principal Planner*) indicated that the arborist on the Design Review Committee would look at these issues.

Commissioner Thomas asked if the applicant would use green energy. **Ms. Pongeggi** stated that this is part of Village Six, so it will have to comply with the energy conservation measure requirements that are already required for Village Six.

Vice-Chair Chávez inquired if the City has noise thresholds for indoors. **Mr. David Gottfredson** (*RECON, 1927 Fifth Avenue, San Diego, CA 92101*) clarified that there would be no noise in the classrooms during normal operations due to their location. There are mitigation measures that require monitoring to determine whether or not the construction activities are interfering with classroom activities while the phases are being built out.

Vice-Chair Chávez inquired about where the noise monitoring would be done. **Mr. Gottfredson** stated that monitoring will be at the classroom.

**MSC** (Thomas/Jasek) that the RCC recommend that the City Council approve the Mitigated Negative Declaration. **Vote:** (6-0-0-1) with Means absent.

Agenda Item #3 was taken out of order.

### **3. 224 Fig Avenue – Request to Modify Mills Act Contract**

Ms. Lynnette Tessitore-Lopez (*Associate Planner*) reported that the homeowners were not present but had listed all their concerns in writing. The windows are currently the original windows, and the homeowners would like to install more energy efficient vinyl windows. Substantial alterations such as installation of vinyl windows to historic properties that are entered into the Mills Act Contract are to be referred to the RCC for consideration. In addition, all alterations and modifications to homes entered into the Mills Act shall be in conformance to the Secretary of the Interior Standards. Staff uses these standards to determine whether alterations either completed or proposed are consistent with the structure

and do not alter or affect the historical integrity of such structures. Based upon review of these standards, it is staffs' opinion that the replacement of these original windows with vinyl windows would affect the historic character of this Tutor home. The decision of the RCC may have overarching effects due to the infancy of the Mills Act program in Chula Vista. The City has no precedent for a request such as this. The decision of the RCC may have future consequences or will establish policy of how staff will address these issues in the future.

Staff Recommendation: That the RCC find that replacement windows would alter the historic character of this property and that the alteration would violate the provisions of the Mills Act Contract.

#### Commission Comments

Commissioner Bensoussan expressed concern about setting precedent and reminded the Commission about the importance of the windows. She gave information on companies that make historically accurate reproduction windows to Ms. Tessitore-Lopez.

Vice-Chair Chávez asked if the property owners desired to cancel the Mills Act Contract. **Ms. Tessitore-Lopez** stated that they are because they are not receiving as much of a reduction in their property taxes as they had anticipated.

**MSC** (Chávez/Bensoussan) that the Resource Conservation Commission find that replacement windows will alter the historic character of the property; therefore, the alteration will violate the provisions of the Mills Act Contract. **Vote:** (6-0-0-1) with Means absent.

## **2. Proposed City Council Building Energy Policy**

Chair Reid announced that the staff member for Item #2 was home ill and had asked for a continuance to the next meeting. He requested that unless there were questions, the Commission take action.

**MSC** (Thomas/Bensoussan) to make a recommendation that the RCC supports and endorses the adoption of the Building Energy Policy. **Vote:** (6-0-0-1) with Means absent.

## **4. Discussion of 501c3 for Redevelopment (UDC)**

Ms. Dana Smith (*Assistant Director of Community Development*) gave a PowerPoint presentation on the UDC to advise the RCC up on what the City Council adopted, the community workshops and the report upon which the Council relied.

#### Commission Comments

Commissioner Thomas felt that with investors there are all kinds of opportunities for conflict of interest. **Ms. Smith** stated that the 501c3 is what is called for under the Tax Code as a supporting organization to a government agency. She explained about a specific section in the Tax Code that governs supporting organizations. She further explained that the proposed design of the Board, with all five Council members on it, was advised by outside legal counsel, in order to maintain the tax status of the 501c3.

Commissioner Jasek understood Ms. Smith's presentation to mean that the City Council is saying that it's the Design Review Committee, the Planning Commission and the Resource Conservation Commission that had inhibited them from doing what needs to be done in the City; therefore, they should be eliminated. **Ms. Smith** indicated that the July 2004 report never denigrates the Resource Conservation Commission or stated that the Planning Commission or Design Review did not do their job. The proposal is an effort to streamline processes by having one Board instead of three to save time.

Chair Reid stated that the City would still have to operate under time constraints of CEQA. There would be no timesaving.

Commissioner Bensoussan questioned how the report was paid for and by whom. She quoted one of the Q&As from the report regarding if the new entity could assume, in an advisory capacity, the control over planning, environmental review, and/or permitting within designated Project Areas and/or in areas outside of designated Project Areas? She further indicated that the report did state ~~that this would be the strategy of the proposed corporation and~~ that it would be cost effective and benefit the Project Areas and the developers. Commissioner Bensoussan felt the statement was vague and that the report did not state that the three Commissions would be cut out of the process. She felt that the City should ~~rely on~~ take input from the three Boards to work out the details for implementation.

Chair Reid agreed that the Boards, Commissions and Committees who have been affected by a change in the process should have been directly involved much earlier in process so that they were aware of the potentials and given an opportunity to provide their input and have the dialog.

Vice-Chair Chávez stated that he does not believe that they are opposed to the UDC, urban development, redevelopment, renovation and economic stimulation but that public involvement and public review is a huge issue in Chula Vista, and the way the UDC is currently set up with some members who may not be Chula Vista residents, the City will be challenged to exceed the expertise that the City has on its Commissions right now.

**MSC** (Chávez/Diaz) that the RCC respectfully requests that the Mayor and City Council revisit their recent Council action to proceed with the Urban Development Corporation to specifically consider retaining the current Commission review process for effective UDC projects.

#### Discussion

Commissioner Jasek felt the real question here is how do you justify the un-involvement of the public that has worked so well for so long?

Commissioner Thomas indicated that if you look at the history of those ~~mini~~ municipal decisions and those instances where there was not opportunity for the public to give input early in the game, it actually cost the City much more financially and ~~pride-wise~~ time-wise, staff-wise and otherwise.

**Vote:** (6-0-0-1) with Means absent.

Commissioner Diaz left the meeting at 7:35 p.m.

Further Discussion

Vice-Chair Chávez was not comfortable having a project the magnitude of Chula Vista's portion of the Bayfront redevelopment pass through Community Development as he had seen outlined thus far and the UDC develop the plans.

Commissioner Bensoussan indicated that the public knows the City's system. Members of the community come to meetings and express themselves during project review. The Commissions are a terrific outreach to the community. **Ms. Smith** stated that the redevelopment agencies have many different ways in involving the public. Without strong support from the public, the redevelopment efforts would be in trouble.

Commissioner Bensoussan asked about the possible meeting on the 10<sup>th</sup> with the Planning Commission, Design Review Committee and Resource Conservation Commission. **Ms. Nancy Lytle** (*Assistant Director of Planning & Building*) responded that all the Commissions have been involved in the discussion of a meeting to make recommendations. The Council, staff and City Manager are pulling together a method of doing that.

The Commission further discussed the date for the meeting as well as the agenda and anticipated outcome.

Commissioner Bensoussan indicated that the three Commissions would like to have a dialog on this subject to see if there is any consensus among the three Commissions on recommendations regarding the process of public involvement that they may make as a recommendation to the City Council.

Vice-Chair Chávez recommended that Ms. Smith take what she had so far and go back to the Planning Commission who originally asked for a meeting of all three Commissions and let them define the format and the agenda.

**ENVIRONMENTAL REVIEW COORDINATOR COMMENTS:** Ms. Ponseggi announced that the Draft General Plan EIR began its public review December 31, 2004. The RCC will be conducting a special meeting on Monday, January 31<sup>st</sup>, to consider the EIR and make comments. The Planning Commission hearing to close the public review period will be February 14<sup>th</sup>. She also announced that the Draft General Plan Update was also out.

**CHAIR COMMENTS:** Chair Reid requested that the RCC roster be updated.

**COMMISSIONER COMMENTS:** Commissioner Bensoussan announced that the historic calendars that the Otay Land Company donated as a fundraiser for the Heritage Museum are out. In reference to the house on Main Street that she talked about at the last meeting...she toured the house, which is a wonderfully preserved Victorian Orchard house. You would never expect it to be there. You can't see it from the street, but it's an oasis when you get there. There was a framed Proclamation from Mayor Cox on a wall saying that on such and such a date in 1986 was Walter Anderson Day, and there was a whole list of things that he and his family contributed to the community, etc. At the end of the Proclamation it referenced the fact that the Resource Conservation Commission had designated the house as a Historic Treasure signed by Mayor Cox. Commissioner Bensoussan would like to know how she could research the minutes from 1986 to find the Resource Conservation Commission meeting where this was designated. **Ms. Ponseggi** would have Ms. Tessitore-Lopez contact her.

**ADJOURNMENT:** Chair Reid adjourned the meeting at 8:04 p.m. to a regular meeting on Monday, February 7, 2005 at 6:00 p.m. in the Ken Lee Building Conference Room, 430 "F" Street, Chula Vista, CA 91910.

Prepared by:

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Linda Bond  
Recording Secretary

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